

## REMARKS/ARGUMENTS

### I. Status of the Claims

Claims 16 to 18 will be pending after entry of this amendment. Claim 16 has been amended to more clearly define the invention. Support for the amendment can be found in the specification, for example, on page 6, lines 17-32. The amendment is necessary and was not earlier presented because it is in response to the new ground of rejection for new matter set forth in the final Office Action. Since the amendment obviates the outstanding grounds of rejection as discussed below, reduces the number of issues, contains no new matter, and places the application in condition for allowance or better condition for appeal, the amendment should be entered.

### II. The Claims Are Patentable Under 35 U.S.C. § 112, First Paragraph

Claims 16-18 have been rejected under 35 U. S. C. § 112, first paragraph, for allegedly failing to comply with the written description requirement. In particular, the Examiner argued that the recitation of "L" molecules added by the previous amendment was not supported by the original written description.

Applicants have amended the claim 16 to correct the recitation that the Class I molecules are " $L^D$ " molecules. Since, as noted in the outstanding Office Action, this correction is supported by the specification, the rejection for new matter has been overcome.

### III. The Claims Are Patentable Under 35 U.S.C. § 103(a)

Claims 16-18 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Burshtyn et al. (*J. Immunol.* **151**: 3070-3080, 1993). Applicants traverse the rejection.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation to modify the reference or to combine the reference teachings so as to arrive at the claimed invention and there must be a reasonable expectation of success for achieving the claimed invention as a whole. *See In re Vaeck*, 20 U.S.P.Q. 2d 1438 (Fed. Cir. 1991). For the reasons discussed below, a proper *prima facie* case of obviousness has not been set forth.

DOCKET NO.: ORT-1060 (JJPR-0003)  
Application No.: 09/434,965  
Office Action Dated: September 22, 2003

PATENT  
REPLY FILED UNDER EXPEDITED  
PROCEDURE PURSUANT TO  
37 CFR § 1.116

Independent claim 16 is now directed to a substrate for capturing antigens, comprising a support having on its surface purified immobilized empty MHC Class I molecules that are K<sup>bm3</sup> or L<sup>D</sup> molecules expressed from a recombinant *Drosophila* cell and are capable of binding one or more antigens, and wherein the substrate is not a lipid bilayer. The cited reference fails to teach or suggest such a substrate.

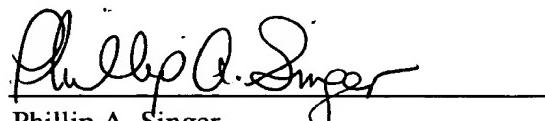
The Office Action cites the Burshtyn et al. reference as teaching a substrate for capturing antigens. The Burshtyn et al. reference utilizes a source of MHC Class I molecules that are purified by immunoisolation from cell lines, e.g., RMA and RMA-S. See Burshtyn et al., p. 3071, col. 1, paragraph 2, and col. 2, paragraph 3. By contrast, the presently claimed substrate employs recombinant empty MHC Class I molecules that are K<sup>bm3</sup> or L<sup>D</sup> molecules produced in a recombinant *Drosophila* cell line. The invention as a whole advantageously allows the use of MHC protein homogeneously loaded with the same antigen. Since the claims patentably define over the prior art, Applicants respectfully request that the rejection of claims 16 to 18 under 35 U.S.C. § 103(a) be withdrawn.

#### IV. Conclusion

In view of the foregoing, the application is now in condition for allowance. The prompt issuance of a formal Notice of Allowance is therefore requested.

If the Examiner believes a telephone conference would expedite allowance of this application, please telephone the undersigned at 206-332-1380.

Date: December 19, 2003



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